

Peter Szanto 949-887-2369
1
11 Shore Pine
2
Newport Beach CA 92657

3 **U.S. BANKRUPTCY COURT**
4

5 **DISTRICT OF OREGON**

6 1050 SW 6th Ave #700 Portland, OR 97204 (503) 326-1500

7 In Re: Peter Szanto,

8 **Involuntary Debtor**

16-bk-33185-pcm7

9 **Peter Szanto's**

10 **Notice of Motion**

11 **and Motion for Relief**

12 **from ORDER (DE 973)**

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16 **1. Plaintiff's Certification Relating to Pre-filing Conferral**

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18 On May 20th through 27th, 2020 Szanto, on various days, sought
19 conferral with all of the many contra parties listed on the proof of service
20 herein as to matters related to the presentation of this Motion for Relief.

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22 Szanto's calls went to voice mail or message taking secretaries.
23 Szanto stated that he was asking for a return phone call to discuss the
24 matters addressed herein. Szanto sought actually to speak with counsel.
25 Since those calls made by Szanto, no counsel has called, nor even tried to
26 call Szanto.

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Therefore, Szanto has sought conferral so as to discuss the
issues to be presented herein, but has been unsuccessful in discussion of
the matters at issue.
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I certify under penalty of perjury under the laws of the United
6 States, that the foregoing is true and correct. Signed at Irvine CA.
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9 DATED June 1, 2020 /s/ Signed electronically Peter Szanto
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13 **2. Notice**
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To the Bankruptcy court, the various trustees, the creditors, their
counsel and any / all other persons or entities with an interest in this cause,
please take NOTICE, Peter Szanto herewith and hereby requests relief
from ORDER (DE 973) and **immediate return of \$2,342,902.00.**
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21 **3. Facts**
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Peter Szanto commenced a voluntary Bankruptcy in this court on
8-16-2016. (DE 2)
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Szanto's presumption was that all matters in this court would be
conducted in conformance with the laws of the United States: which he
could comprehend and in which he could participate on the basis of due
16-33185 MOTION FOR RELIEF FROM ORDER - p. 2

1 process of law, fundamental fairness, adequate notice and an opportunity
2 to be heard in a meaningful manner.

3 As matters of fact and law, those essential elements which underlie
4 American justice have not been the reality in Judge McKittrick's court in the
5 last 5 years.

6

7 The proceedings in this court have become an **INVOLUNTARY**
8 **BANKRUPTCY PROCEEDING** to which Peter Szanto NEITHER
9 consented NOR regarding which has there been any required petition,
10 summons or service thereof as mandated by 11 USC § 303.

11

12 These facts have been ruled upon by Judge Simon [EXHIBIT A, p.2]:

13

14 the Bankruptcy Court converted Szanto's voluntary
15 Chapter 11 petition to an involuntary Chapter 7
16 bankruptcy

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18 Judge McKittrick's *ultra vires* involuntary conversion remains and continues
19 contrary to law – AND UPON THAT GROUND PETER SZANTO AGAIN
20 DEMANDS RETURN OF - \$2,342,902.00.

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23 **4. MEMORANDUM**

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25 The purpose of this application is to vacate the ORDER (DE 973)
26 so that Peter and Susan Szanto's \$2,342,902.00 of assets may be returned
27 to them from the *ultra vires* **involuntary Bankruptcy** proceeding herein.
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2 **a. FRCP 60(b) Allows Relief Based on a Court's Mistake**

3 The plain English language of Congressional judiciary committees' notes as to FRCP 60(repeatedly since 1946), give guidance to the effect that Bankruptcy courts have inherent authority, under FRCP 60(b)(1), to reopen judgment based on its own mistakes of law. *Gey Assocs. Gen'l. P'ship v. 310 Assocs.* (2003), 346 F.3d 31 which at page 35 states:

8
9 In two early cases, this Court established a principle that Rule 10 60(b)(1) was available for a district court to correct legal 11 errors by the court. See Schildhaus v. Moe, 335 F.2d 529 (2d Cir. 12 1964); Tarkington v. United States Lines Co., 222 F.2d 358 (2d 13 Cir. 1955). In *Schildhaus*, Judge Friendly, writing for the panel, 14 observed that the use of Rule 60(b) to correct a court's own 15 mistakes of law was much more efficient than requiring an 16 aggrieved party to appeal. *Id.* at 531. The panel also cited with 17 approval the recommendation from *Moore's Federal Practice* that 18 Rule 60(b)(1) motions not be permitted past the deadline for 19 filing a notice of appeal, thereby preventing Rule 60(b)(1) from 20 becoming a way to assert an otherwise time-barred appeal. *Id.* 21 (citing *Moore's Fed. Prac.* § 60.23 (3-4), at 239 (1955)).
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25 Here, the District has clearly and very emphatically ruled that the 26 instant case is an **involuntary Bankruptcy** [EXHIBIT A, p.2]:
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28

the Bankruptcy Court converted Szanto's voluntary Chapter 11 petition to an involuntary Chapter 7 bankruptcy

11 USC § 303 is the law which regulates involuntary Bankruptcies. Neither Judge McKittrick nor any creditor has followed any of the required formalities to initiate an involuntary Bankruptcy against either Peter Szanto or Susan Szanto. Therefore, this involuntary Bankruptcy is improper!!

Thereupon, none of the formalities of 11 USC § 303 have been complied with in this case commenced by Peter Szanto as a **voluntary** Bankruptcy (DE 2).

Based on Judge McKittrick's **mistaken analysis** and false rationale regarding the Bankruptcy court's **involuntary expropriation** of Peter and Susan Szanto's money and property, this court, Judge McKittrick, Trustee Amborn, Department of Justice Counsels Kukso and Arnot, as well as attorneys Henderson and Blackledge have no basis at law for the retention of Peter and Susan Szanto's assets. Thereupon, said \$2,342,902.00 of money, property and other assets **must** be returned immediately.

b. Judge McKittrick Is Also Mistaken
Regarding Community Property Law

Judge McKittrick's mistaken notions regarding the propriety and difference between voluntary and involuntary Bankruptcies also extend to his "off the cuff", not based on law, wholly incorrect admonitions as to the

1 community property lives, community property intentions and community
2 property estate of Susan and Peter Szanto.

3 1st, Susan and Peter Szanto have the **absolute right**, in private, with
4 no intrusion from Judge McKittrick, nor anyone else, freely to administer the
5 character of their marriage and their community estate however they wish,
6 whenever they so desire to alter any characteristic of their Marriage, in
7 whatever manner they wish to change any characteristic of their marriage.
8

9 California law permits Susan and Peter Szanto to alter, revise,
10 modify or to change their community relationship without the seizure of any
11 of their assets under the guise of *ultra vires* Bankruptcy law.
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13 The character of a community property estate is fixed and continues
14 until it is changed in some manner recognized by law, as by agreement of
15 parties. *Ciambetti v. Department of Alcoholic Beverage Control* (1958), 161
16 Cal. App. 2d 340 accord *Belmont v. Belmont* (1961), 188 Cal. App. 2d 33,
17 accord *Calloway v. Downie* (1961), 195 Cal. App. 2d 348.
18

19 The reason this is significant to the return of Susan and Peter
20 Szanto's money and property is because Judge McKittrick made no inquiry
21 as to the community nature of the Szanto assets, **he just took everything**.
22

23 2nd, on numerous occasions, Judge McKittrick has erroneously held
24 forth that Peter Szanto cannot advocate on behalf of the Susan and Peter
25 Szanto Community Property estate. Judge McKittrick's admonitions are
26 wholly contrary to California law.
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1 Pursuant to California Family Code § 721:
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3 either spouse may enter into any transaction with the
4 other, or with any other person, respecting property, which
5 either might if unmarried

6 Upon this authority of law, Peter Szanto, in demanding return of
7 \$2,342,902.00 of money and property is properly acting under the authority
8 of California Family Code § 721 as to assets which now belong to the
9 Susan and Peter Szanto community property estate.

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11 **5. Conclusion**

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13 Upon these grounds of Judge McKittrick's mistakes, Peter Szanto
14 asks withdrawal of the ORDER denying return of \$2,342,902.00 of assets
15 and reiterates his demand that \$2,342,902.00 of money and property be
16 returned to Susan and Peter Szanto **immediately**.

17

18 **Alternately**, this court is asked to certify this matter for appeal to
19 the 9th Circuit BAP so that Susan and Peter Szanto's lifetime of work is not
20 happily divided amongst Judge McKittrick's close personal friends solely
21 upon the basis of mistake, unpronounceable name, forfeiture, waiver,
22 demeanor, credibility or some other unknowable / erroneous legal theory.

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24

25 Respectfully,

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27 DATED 6/1/ 2020/s/signed electronically Peter Szanto

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PROOF OF SERVICE

2 My name is Maquisha Reynolds, I am over 21 years of age and not
3 a party to the within action. My business address is PO Box 14894, Irvine CA
4 92623. On the date indicated below, I personally served the within:

5 **Motion**

6 on the following by placing in postage pre-paid envelopes of the
7 within document and mailing same to:

8 a. Internal Revenue Service, PO Box 7346, Philadelphia PA 19101
9 b. First Service Residential, 15241 Laguna Canyon Rd, Irvine CA 92618
10 c. JPMorgan Chase Bank, represented by:

11 Gadi Shahak c/o Shapiro & Sutherland

12 1499 SE Tech Center Place, Suite 255 , Vancouver, WA 98683

13 d. Bank of America, c/o McCarthy & Holthus 920 SW 3rd Av., Portland OR 97204

14 e. Oregon Department of Revenue, 955 Center St., Salem OR 97301

15 f. Chapter 7 Trustee, C. Amborn, PO Box 580, Medford OR 97502

16 g. Susan Szanto - 11 Shore Pine, Newport Beach CA 92657

17 h. Office of the US Trustee, 620 SW Main Street, Suite 213, Portland, OR 97205

18 i. Danny Ong, 9 Straits View #06-07, Marina One West Tower Singapore 018937

21 I declare under penalty of perjury under the laws of the United States that the
22 foregoing is true and correct. Signed at Irvine CA.

23 Dated 6/1/ 2020 /s/ signed electronically M. Reynolds